



4164-01-P

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Food and Drug Administration**

**[Docket No. FDA-2015-N-3662]**

**Agency Information Collection Activities; Proposed Collection; Comment Request;**

**Guidance on Reagents for Detection of Specific Novel Influenza A Viruses**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the *Federal Register* concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection associated with the guidance on reagents for detection of specific novel influenza A viruses.

**DATES:** Submit either electronic or written comments on the collection of information by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of **[INSERT DATE 60 DAYS AFTER DATE OF**

**PUBLICATION IN THE *FEDERAL REGISTER***]. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

#### *Electronic Submissions*

Submit electronic comments in the following way:

- Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

#### *Written/Paper Submissions*

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

*Instructions:* All submissions received must include the Docket No. FDA-2015-N-3662 for "Guidance on Reagents for Detection of Specific Novel Influenza A Viruses." Received comments, those filed in a timely manner (see ADDRESSES), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions--To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469,

September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-8867, [PRASStaff@fda.hhs.gov](mailto:PRASStaff@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501-3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the *Federal Register* concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility;

(2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Guidance on Reagents for Detection of Specific Novel Influenza A Viruses--21 CFR Part 866

OMB Control Number 0910-0584--Extension

In accordance with section 513 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360c), FDA evaluated an application for an in vitro diagnostic device for detection of influenza subtype H5 (Asian lineage), commonly known as avian flu. FDA concluded that this device is properly classified into class II in accordance with section 513(a)(1)(B) of the FD&C Act, because it is a device for which the general controls by themselves are insufficient to provide reasonable assurance of the safety and effectiveness of the device, but there is sufficient information to establish special controls to provide such assurance. The statute permits FDA to establish as special controls many different things, including postmarket surveillance, development and dissemination of guidance recommendations, and "other appropriate actions as the Secretary deems necessary" (section 513(a)(1)(B) of the FD&C Act). This information collection is a measure that FDA determined to be necessary to provide reasonable assurance of safety and effectiveness of reagents for detection of specific novel influenza A viruses.

FDA issued an order classifying the H5 (Asian lineage) diagnostic device into class II on March 22, 2006 (71 FR 14377), establishing the special controls necessary to provide reasonable assurance of the safety and effectiveness of that device and similar future devices. The new

classification was codified in 21 CFR 866.3332, a regulation that describes the new classification for reagents for detection of specific novel influenza A viruses and sets forth the special controls that help to provide a reasonable assurance of the safety and effectiveness of devices classified under that regulation. The regulation refers to the document entitled "Class II Special Controls Guidance Document: Reagents for Detection of Specific Novel Influenza A Viruses," which provides recommendations for measures to help provide a reasonable assurance of safety and effectiveness for these reagents. The guidance recommends that sponsors obtain and analyze postmarket data to ensure the continued reliability of their device in detecting the specific novel influenza A virus that it is intended to detect, particularly given the propensity for influenza viruses to mutate and the potential for changes in disease prevalence over time. As updated sequences for novel influenza A viruses become available from the World Health Organization, National Institutes of Health, and other public health entities, sponsors of reagents for detection of specific novel influenza A viruses will collect this information, compare them with the primer/probe sequences in their devices, and incorporate the result of these analyses into their quality management system, as required by 21 CFR 820.100(a)(1). These analyses will be evaluated against the device design validation and risk analysis required by 21 CFR 820.30(g) to determine if any design changes may be necessary.

FDA estimates that one respondent will be affected annually. The respondent will collect this information twice per year; each response is estimated to take 15 hours. This results in a total data collection burden of 30 hours.

The guidance also refers to previously approved information collections found in FDA regulations. The collections of information in 21 CFR part 801 have been approved under OMB control number 0910-0485; the collections of information in 21 CFR part 807, subpart E have

been approved under OMB control number 0910-0120; and the collections of information in 21 CFR part 820 have been approved under OMB control number 0910-0073.

FDA estimates the burden of this collection of information as follows:

Table 1.--Estimated Annual Recordkeeping Burden<sup>1</sup>

Activity	No. of Recordkeepers	No. of Records per Recordkeeper	Total Annual Records	Average Burden per Recordkeeping	Total Hours
Recordkeeping regarding reagents for detection of specific novel influenza A viruses	1	2	2	15	30

<sup>1</sup> There are no capital costs or operating and maintenance costs associated with this collection of information.

Manufactures are increasingly adopting in silico methods (computational analysis) for the detection of specific novel Influenza A viruses over traditional laboratory techniques. Therefore, few manufactures are using reagents for detection of specific novel influenza A viruses. Based on these industry trends, we estimate a decrease in the number of total annual records and a corresponding decrease of 270 hours in the total burden since our last OMB approval.

Dated: February 27, 2019.

**Lowell J. Schiller,**

*Acting Associate Commissioner for Policy.*

[FR Doc. 2019-03899 Filed: 3/4/2019 8:45 am; Publication Date: 3/5/2019]